

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

TRACY HOWARD, et al.,

Plaintiffs,

v.

HAIN CELESTIAL GROUP, INC.,

Defendant.

Case No. [22-cv-00527-VC](#)

**ORDER DENYING MOTION FOR  
PARTIAL RECONSIDERATION**

Re: Dkt. No. 82

As more fully discussed at the hearing, the motion for partial reconsideration is denied. This Court’s decision in *Howard v. Gerber Products Company*, 2023 WL 2716583 (N.D. Cal. Mar. 29, 2023), suggests that the Court applied the wrong legal standard when evaluating Hain Celestial’s motion to dismiss the plaintiffs’ fraud-based claims in their first amended complaint. *See* Dkt. No. 56. Still, reconsideration wouldn’t affect the plaintiffs’ ability to pursue these claims and thus would only create delay. The Ninth Circuit’s decision in *McGinity v. Procter & Gamble Co.*, 69 F.4th 1093 (9th Cir. 2023), is not applicable because, taking the allegations in the complaint as true, it is not ambiguous whether these products—marketed either as “toddler” foods or for children ages “9+ months”—are intended for children under age two.

**IT IS SO ORDERED.**

Dated: August 17, 2023



VINCE CHHABRIA  
United States District Judge